

**STATE OF RHODE ISLAND  
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: Donald L. Carcieri  
Respondent**

**Complaint No. 2008-3**

**ORDER**

This matter having been heard before the Rhode Island Ethics Commission on November 18, 2008, pursuant to Commission Regulation 1011, and the Commission having considered the Complaint herein, the arguments of counsel, the findings of fact, and the proposed Informal Resolution and Settlement, which is incorporated by reference herein, it is hereby

**ORDERED, ADJUDGED AND DECREED**

THAT, the Commission approves the Informal Resolution and Settlement; and

THAT, the Commission incorporates by reference herein its findings of fact and conclusions of law as those set forth in the Informal Resolution and Settlement; and

THAT, the Respondent is ordered to pay a civil penalty in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars.

Entered as an Order of this Commission,

A handwritten signature in dark ink, appearing to read "Barbara R. Binder", written over a horizontal line.

Barbara R. Binder  
Chairperson

Dated: November 19, 2008

**STATE OF RHODE ISLAND  
BEFORE THE RHODE ISLAND ETHICS COMMISSION**

**In re: Donald L. Carcieri  
Respondent**

**Complaint No. 2008-**

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**INFORMAL RESOLUTION AND SETTLEMENT**

The Respondent, Donald L. Carcieri, and the Rhode Island Ethics Commission hereby agree to a resolution of the above-referenced matter as follows:

**I. FINDINGS OF FACT AND ADMISSIONS**

1. The Respondent was first elected to the Office of Governor of the State of Rhode Island in November of 2002 and was re-elected in November of 2006.
2. In January of 2003, the Respondent hired Stephanie Accaputo (hereinafter "employee"), a staff member assigned to the Office of Constituent Affairs, within the Office of the Governor.
3. Said employee is the daughter of the Respondent's spouse's brother (the Respondent's brother-in-law) and, as such, is the niece of the Respondent, as defined in the Code of Ethics. See Commission Regulation 36-14-5005.

**II. CONCLUSIONS OF LAW**

1. The Commission finds that by employing his niece, the Respondent violated R.I. Gen. Laws § 36-14-5(d) and Commission Regulation 36-14-5005.
2. Pursuant to the Code of Ethics, the Respondent is prohibited from participating in, or delegating to a subordinate, any transfer of a family member in a state agency in which the official exercises fiscal or jurisdictional control, except in accordance with instruction or advice received from the Commission through a written advisory opinion. See Commission Regulation 36-14-5004(b)(2)(A) and (B).

### **III. MITIGATING FACTORS**

In mitigation of the conduct detailed above, the Respondent points to the following factors, which are the sole representations of the Respondent and are in no way adopted by the Commission or the Prosecution, and which warrant the informal resolution and settlement of this matter:

1. In employing Ms. Accaputo on the Executive Department staff, the Respondent did not intend to violate the Code of Ethics. At the time of her employment - prior to the Ethics Commission's 2007 clarifying nepotism amendment (Commission Regulation 36-14-5004) – the Respondent believes that the Code's nepotism provision was not organized in a way that the Respondent would have been provided with reasonable notice that his wife's brother's daughter was considered to be a family member for the purposes of the Code's nepotism prohibitions. Although she is employed on his staff, the Respondent does not exercise direct supervision over Ms. Accaputo.

2. When the Respondent became aware that the ongoing employment might constitute a violation of the Code, as amended by the Commission in 2007, and prior to the filing of the instant complaint, the Respondent through counsel requested an advisory opinion, as he believed was his right pursuant to Regulation 36-14-5004(b), in order to deal with the situation. The Commission declined his request for advice in this regard, thus leaving the Respondent in a position of being unable to address the employment situation.

3. When the complaint in this matter was filed, the Respondent filed a memorandum in support of his position that he did not willfully and knowingly violate

the Code. The Respondent renewed his request for the Commission's advice, pursuant to Regulation 36-14-5004(b) in order to deal with the employment. Because of the pending complaint, the Respondent's renewed request for advice was not presented to the Commission.

4. The Respondent acknowledges that once the nepotism provision was clarified and enacted in 2007, and subsequently brought to his attention, the employment of his wife's brother's daughter within the Governor's office was a violation of R.I. Gen. Laws § 36-14-5(d) and Commission Regulation 36-14-5005.

#### IV. SETTLEMENT

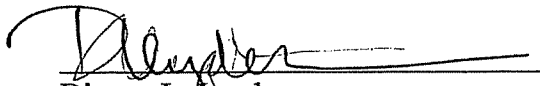
Pursuant to the above Findings of Fact and Conclusions of Law, the parties agree to the following:

1. The Respondent shall pay a civil penalty in the amount of \$2,500.

2. The Respondent is authorized by the Commission to delegate to a subordinate the transfer of said employee to another position in state government whereby the Respondent will not supervise, evaluate, appoint, promote, classify or discipline said employee. See Commission Regulation 36-14-5004(b)(2)(A) and (B).

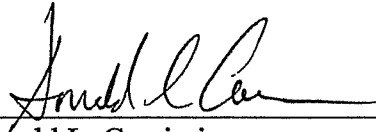
3. In order to effectuate said transfer, and in lieu of a written advisory opinion, the Commission agrees not to prosecute any complaint filed against the Respondent specifically concerning his participation in the aforementioned delegated transfer of said employee.

4. The above terms represent the full and complete Informal Resolution and Settlement for Complaint No. 2008-3.



Dianne L. Deyden  
Commission Prosecutor

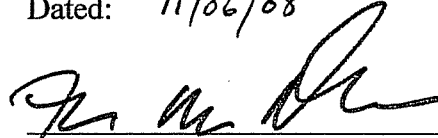
Dated: 11/10/08



Donald L. Carcieri

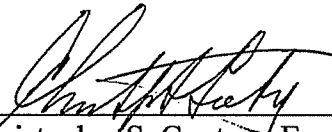
Respondent

Dated: 11/06/08



Thomas More Dickinson, Esq.

Respondent's Counsel 11/10/08



Christopher S. Gontarz, Esq. 11/10/08

Respondent's Counsel